

**DEPARTMENT OF HEALTH AND FAMILY SERVICES
DIVISION OF HEALTH CARE FINANCING
ADMINISTRATOR'S MEMO SERIES**

NOTICE: 06-01

DATE: February 13, 2006
DISPOSAL DATE: Ongoing

**RE: Local agency
compliance with DHFS
requests for records and
case-specific corrective
action**

To: County Departments of Human Services Directors
County Departments of Social Services Directors
Tribal Chairpersons/Human Services Facilitators
Tribal Economic Support Directors

From: Mark B. Moody
Administrator
Division of Health Care Financing

PURPOSE

This memo provides information about the implementation of contract language changes included in Appendix AL to the 2006 State and County Contract for Social Services and Community Programs. These provisions will be effective January 1, 2006. Initial notification of these contract language changes was provided in Administrator's Memo 05-10.

Because the State and Tribal Contract for the Department of Health and Family Services Programs was effective beginning October 1, 2005, not all of these requirements apply to the tribes for Program Year (PY) 2006. A separate Administrator's Memo will provide information about the requirements for the tribes for PY 2006 and PY 2007.

INTRODUCTION

Two of the Income Maintenance (IM) contract changes in 2006 address liquidated damages when agencies do not comply with DHFS requests to submit records and take case specific corrective action. Procedures for implementation of these provisions are outlined below.

Case specific corrective action

Local agencies are notified in writing (including electronic mail) by the Department when eligibility errors are identified through the FoodShare Quality Assurance (FSQA) Review, Medicaid Eligibility Quality Control (MEQC) Review, and Payment Error Rate Measurement (PERM) Review. Notification is directed to the individual identified by the agency as their quality assurance contact.

IM case specific errors identified through FSQA reviews, MEQC reviews, and PERM reviews must be corrected. Corrective action can include termination of current and future benefits, the calculation of overpayment amounts and claims establishment, or restoration of benefits that were incorrectly under-issued, denied or terminated.

When the Department identifies an error in benefits, the IM agency will have thirty (30) calendar days from receipt of written notification of the error from the Department to correct the error or provide the Department with a good faith refutation of the corrective action needed. When an error in benefits is not corrected within thirty (30) calendar days and the Department provided verification to the agency, liquidated damages will be assessed in the amount of Two Hundred and Fifty Dollars (\$250) per case. For each additional thirty (30) days the IM agency fails to correct the case specific error, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. If the Department takes action to correct the IM case specific error, additional liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case.

When the Department identifies an overpayment which requires claims establishment, the IM Agency will have thirty (30) calendar days from receipt of notification of the error from the Department to calculate the overpayment and establish a claim. When an overpayment claim is not established within thirty (30) calendar days, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. For each additional thirty (30) days the agency fails to calculate the overpayment and establish a claim, liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case. If the Department takes action to calculate the overpayment and establish a claim, additional liquidated damages will be assessed in the amount of Two Hundred Fifty Dollars (\$250) per case.

Although FSQA, MEQC and PERM reviews generally focus on one month of eligibility, errors often impact eligibility for additional months within the certification period. It is the Department's expectation that corrective action will be promptly taken for all months affected by the error. However, liquidated damages will only be assessed when the Department provides the agency with verification to support the error finding and corrective action is not taken within 30 days.

Examples:

In the course of a PERM review, the Department learned that the recipient incorrectly reported net (rather than gross) pension income. Therefore, the recipient's patient liability should have been higher than the amount determined by the agency. At the time the agency was notified of the error finding, the Department supplied verification of the gross pension amount for a six month period. If the agency fails to take corrective action (including establishment of an overpayment claim) for the entire six month period within 30 days, liquidated damages will be assessed.

In the course of an MEQC review, the Department discovers that the recipient failed to report a second job that began in January. The Department confirms that for the month of March, the recipient was ineligible because income exceeded program limits in both February and March. The agency is notified of the error in June and is supplied with income verification for February and March. It is expected that the agency will obtain income information for the months of April and May and take any necessary corrective action as soon as possible. However, if the agency fails to take corrective action (including establishment of an overpayment claim) for the month of March within 30 days, liquidated damages will be assessed.

Good cause reasons for non-compliance with case specific corrective action requests

Liquidated damages will not be assessed if the Department is notified within thirty days from the date of request that case specific corrective action cannot be taken because of a natural disaster or catastrophic incident such as flood or fire, or because of Department systems failures.

Compliance with records requests

The IM Agency shall provide information in a form and manner prescribed by the Department, using the CARES system and other systems designated by the Department. The IM Agency shall use the schedules for record retention in accordance with the Department's policies and procedures and state and federal law.

Upon request, the IM Agency shall make records available to the Department for inspection. Upon ten (10) business days notice from the Department, the IM Agency further agrees to transfer to the Department any original or copy of records that the Department requests during or after the contract term. Failure to provide records as requested may result in an assessment of liquidated damages in the amount of Two Hundred and Fifty Dollars (\$250) for each record requested that is not timely transferred.

This contract provision applies to any type of IM record and to both paper and electronic records. To be considered complete, an IM case record must minimally contain a signed application or review form and all verification and documentation used in the eligibility determination. An unsigned Combined Application Form (CAF) in lieu of a signed application or review form does not meet this requirement.

The Department will notify the agency of records requests in writing (including electronic mail). Requests will be directed to the individual the agency has identified as their quality assurance file coordinator.

Good cause reasons for non-compliance with records requests

Liquidated damages will not be assessed if the Department is notified within ten days of request that a record is unavailable because of a natural disaster or catastrophic incident such as flood or fire, or because the Department's carrier was unable to pick up or deliver records timely. Similarly, liquidated damages will not be assessed if an electronic record is unavailable due to Department systems failures.

Implementation

The Director of the county human services department will receive written notification from the Department of any pending adjustments to your IM expense reimbursements. Notification of pending adjustments will be provided on a quarterly basis, beginning in April 2006. The Director will also be provided with specific information about:

- Any agency records that were not submitted or were submitted late or incomplete; and
- Any untimely case specific corrective actions and/or corrective actions taken by the Department.
- The date when the adjustment is scheduled to occur;

Agencies will have ten business days to refute the pending adjustment amount. After that date, the adjustment will be processed for cases not refuted and for cases where the refutation was not upheld by the Department.

Refutations and other questions about the basis for pending adjustments should be directed to Bernadette Connolly at 608-261-7830.

Fiscal questions should be directed to Jodi Ross at 608-266-8409.

REGIONAL OFFICE CONTACT: DHFS Area Coordinators

CENTRAL OFFICE CONTACT:

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